

EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
Plaintiff,) Case No. 10 C 06139
and)
REGINALD BAILEY, et al.,)
Intervening-Plaintiffs,) Judge John Z. Lee
v.)
DHL EXPRESS (USA), INC.,)
Defendant.)

**DECLARATION OF KYLE R. HARTMAN IN SUPPORT OF DHL'S MOTION TO
STRIKE THE NEW EXPERT REPORT OF DR. THOMAS DIPRETE**

I, Kyle R. Hartman, declare as follows:

1. I am a partner with the law firm of Seyfarth Shaw LLP, counsel of record for DHL Express (USA), Inc. ("DHL") in the above mentioned case.
2. On May 11, 2107, I contact counsel for EEOC and requested that they produce the calculations, worksheets, and back-up data supporting the conclusions and opinions contained in Dr. DiPrete's new declaration. A true and correct copy of that correspondence is attached hereto as Exhibit 1.
3. On May 15, 2017, the EEOC produced five data files and a new computer program described as the "calculations, worksheets, and back-up data Dr. DiPrete used to reach the conclusions identified in his declaration." A true and correct copy of that email correspondence is attached as Exhibit 2.

4. On June 8, 2017, in response to a follow request from DHL, the EEOC produced an additional data file that Dr. DiPrete used to perform the calculations and analyses underlying his new Declaration.

5. During discovery in this matter, DHL produced extensive data files containing package pickup and delivery information, and driver staffing data that Dr. DiPrete used to conduct his analyses. DHL produced its pickup and delivery and staffing data in 2011 and 2012. In April 2014, DHL re-produced a limited amount of delivery data from a secondary system due to data corruption, but DHL has not otherwise produced any new or amended pickup and delivery or staffing data since approximately August of 2012.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: June 15, 2017

s/ Kyle R. Hartman (via ECF filing)

Kyle R. Hartman

EXHIBIT 1



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Writer's e-mail
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ATLANTA BOSTON CHICAGO HOUSTON LONDON LOS ANGELES MELBOURNE NEW YORK SACRAMENTO

May 11, 2017

VIA E-MAIL

Dianne Smason, Esq.
Laurie Elkin, Esq.
Brad Fiorito, Esq.
Equal Employment Opportunity Commission
500 West Madison Street, Room 2000
Chicago, IL 60661

Re: EEOC v. DHL, N.D. Ill. Case No. 10-6139

Dear Dianne:

The EEOC's response to DHL's motion for summary judgment contains a new declaration from Dr. DiPrete. It does not appear that the calculations Dr. DiPrete performed to reach the conclusions in his new declaration are contained in the back-up data previously produced. Please produce those calculations, worksheets, and back-up data in their native format. Alternatively, please identify where those calculations, worksheets, etcetera are located in the previously produced data.

Very truly yours,

SEYFARTH SHAW LLP

/s/ Kyle Hartman

Kyle Hartman

cc: Lee Winston, Esq.
Camille A. Olson, Esq.
Richard B. Lapp, Esq.

EXHIBIT 2

Hartman, Kyle R

Subject: Re: EEOC v. DHL
Attachments: apr222017_sum_1.xlsx; apr222017_max.xlsx; apr222017_max.dta; apr222017_1.log; apr222017_sum_1.dta; apr222017.do

From: BRADLEY FIORITO [mailto:BRADLEY.FIORITO@EEOC.GOV]
Sent: Monday, May 15, 2017 3:19 PM
To: 'lwinston@winstoncooks.com'; Broderick, Erica L; ELKIN, LAURIE; SMASON, DIANE
Cc: Hartman, Kyle R; Lapp, Richard; Olson, Camille
Subject: Re: EEOC v. DHL

Good afternoon,

The attached files are being provided in response to your May 11 correspondence and include the calculations, worksheets, and back-up data Dr. DiPrete used to reach the conclusions identified in his declaration.

If you have further questions, please let us know.

Thank you,

Brad Fiorito

Brad Fiorito
Trial Attorney
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>>> "Broderick, Erica L" <EBroderick@seyfarth.com> 5/11/2017 11:27 AM >>>
Hello,

Attached please find correspondence from our office regarding Dr. DiPrete. Should you have any questions, feel free to contact Kyle Hartman.

Erica L. Broderick | Secretary | Seyfarth Shaw LLP
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